

OREGON PROGRESSIVE PARTY



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Oregon Progressive Party Position on Bill at 2019 Session of Oregon Legislature:

SB 761: Oppose

Dear Committee:

The Oregon Progressive Party (OPP) opposes this bill, which:

Requires that only elector who has personally printed copy of electronic signature sheet for petition or prospective petition may sign signature sheet.

Prohibits future use of electronic signature sheets for particular petition or prospective petition, if Secretary of State determines that one or more electors who have not personally printed electronic signature sheet have signed and submitted sheet to secretary.

This bill is the epitome of voter suppression.

Imagine a law that required every voter in Oregon to print out her own ballot and banned every voter from obtaining her ballot in any other way. Surely the members of this Committee (on whose behalf this bill was introduced) would justifiably shout about voter suppression.

Signing a petition is legally akin and equivalent to voting and carries the same constitutional protections.

Voting is a fundamental right subject to equal protection guarantees under the Fourteenth Amendment. See *Reynolds v. Sims*, 377 U.S. 533, 561–62, 84 S.Ct. 1362, 12 L.Ed.2d 506 (1964) (“Undoubtedly, the right of suffrage is a fundamental matter in a free and democratic society.”). The ballot initiative, like the election of public officials, is a “ ‘basic instrument of democratic government,’ ” *Cuyahoga Falls v. Buckeye Comm. Hope Found.*, 538 U.S. 188, 123 S.Ct. 1389, 1395, 155 L.Ed.2d 349 (2003) (quoting *Eastlake v. Forest City Enters., Inc.*, 426 U.S. 668, 679, 96 S.Ct. 2358, 49 L.Ed.2d 132 (1976)), and is therefore subject to equal protection guarantees. Those guarantees furthermore apply to

ballot access restrictions just as they do to elections themselves. See Illinois State Bd. of Elections v. Socialist Workers Party, 440 U.S. 173, 184, 99 S.Ct. 983, 59 L.Ed.2d 230 (1979).

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Nominating petitions for candidates and for initiatives both implicate the fundamental right to vote, for the same reasons and in the same manner, and the burdens on both are subject to the same analysis under the Equal Protection Clause.

Idaho Coal. United for Bears v. Cenarrusa, 342 F3d 1073, 1076, 1077 (9th Cir 2003). The exact same analysis was more recently applied in Am. Civil Liberties Union of Nevada v. Lomax, 471 F3d 1010, 1019 (9th Cir 2006).

SB 761 also carries an absurd mandatory penalty: If anyone is found to have given someone else a copy of the unfilled-out electronic signature sheet, the Secretary must (1) require the chief petitioners to stop making the e-sheet available at all and (2) not accept or count any and all subsequently fill-out e-sheets. This is an invitation to sabotage, as any opponent of the measure can easily engineer a violation in order to derail an entire initiative signature drive.

If this bill is enacted, I will eagerly anticipate challenging it in court.

Oregon Progressive Party

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